

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**ROBERT W. HAMIC, JR.,  
MARIE G. HAMIC,**

**Plaintiffs,**

**v.**

**No. 11-cv-0644 WJ/SMV**

**MORTGAGE ELECTRONIC  
REGISTRATION SYSTEM, INC.,  
AMERICA'S SERVICE COMPANY,  
and US BANK,**

**Defendants.**

**ORDER ADOPTING MAGISTRATE JUDGE'S  
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION  
TO DISMISS PLAINTIFFS' CLAIMS WITH PREJUDICE**

THIS MATTER is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition ("PF&RD") [Doc. 35], filed February 1, 2012. The Magistrate Judge recommended dismissal of the Plaintiffs' claims with prejudice pursuant to Federal Rules of Civil Procedure 37(b), 37(c), and 41(b). The Honorable Stephan M. Vidmar, United States Magistrate Judge, found that Plaintiffs<sup>1</sup> had repeatedly failed to comply with the orders of the Court. PF&RD [Doc. 35] at 1. Judge Vidmar further found that such failures had actually prejudiced Defendants, that such failures had interfered with the judicial process, that Plaintiffs were culpable for their failures despite warnings that such failures could result in dismissal of their claims, and that lesser

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<sup>1</sup> Both Plaintiffs were proceeding pro se until attorney Thomas Smidt, II, entered his appearance on behalf of Marie G. Hamic on February 14, 2012. Entry of Appearance [Doc. 39]. Plaintiff Robert W. Hamic, Jr., remains pro se.

sanctions had not been effective. *Id.* at 1–2. Additionally, neither Plaintiff filed any objection to the PF&RD, and the time for doing so has passed.


The Court agrees with the Magistrate Judge’s finding that Plaintiffs have abandoned this litigation. The Magistrate Judge carefully set forth the pertinent legal standard and analysis regarding the imposition of a sanction, including a dismissal with prejudice, which is warranted in this case.

**IT IS HEREBY ORDERED** that the Magistrate Judge’s Proposed Findings and Recommended Disposition [Doc. 35] are **ADOPTED** by the Court.

**IT IS FURTHER ORDERED** that Defendants Mortgage Electronic Registration Systems, Inc. and America’s Servicing Company’s Motion for Sanctions Under Rule 37 for Plaintiffs’ Failure to Comply with the Court’s Orders or in the Alternative Motion to Dismiss Under Rule 41 [Doc. 28] is **GRANTED**..

**IT IS FURTHER ORDERED** that Plaintiffs’ claims against all Defendants are **DISMISSED with prejudice**. Therefore, the only surviving claim is US Bank’s counterclaim against Plaintiffs for foreclosure.

**IT IS SO ORDERED.**



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WILLIAM P. JOHNSON  
UNITED STATES DISTRICT JUDGE